

Appendix A

Rule 41. Attendance at hearings

A. [No Change]

B. [No Change]

C. [No Change]

D. [No Change]

E. [No Change]

F. [No Change]

G. The court may close an open proceeding at any time for good cause shown and after considering the factors prescribed in Section ~~D~~ E.

H. [No Change]

I. [No Change]

Rule 52. Initial dependency hearing

A. [No Change]

B. [No Change]

C. Procedure. At the initial hearing the court shall:

1. Inquire if any party has reason to believe that the child at issue is subject to the Indian Child Welfare Act;

2. Appoint counsel pursuant to Rule 38(B);

3. Determine whether service of process has been completed pursuant to Rule 48 or waived as to each party;

4. Advise the parent, guardian or Indian custodian of their rights as follows:

a. The right to counsel, including court appointed counsel if the parent, guardian or Indian custodian is indigent;

b. The right to cross examine all witnesses who are called to testify against the parent, guardian or Indian custodian;

c. The right to trial by the court on the allegations in the dependency petition;

d. The right to use the process of the court to compel the attendance of witnesses; and

e. The right to request prior to the hearing that any hearing be ~~open~~ closed to the public.

5. Determine whether paternity has been established as to any father and take testimony from the mother concerning the identity and location of any potential father; and

6. Inquire of the parent, guardian or Indian custodian whether they wish to admit, deny or not contest the allegations contained in the dependency petition.

a. Admission/No contest. If the parent, guardian or Indian custodian admits or does not contest the allegations in the petition, the court shall proceed with the dependency adjudication hearing pursuant to Rule 55 and set or conduct a disposition hearing pursuant to Rule 56.

b. Denial. If the parent, guardian or Indian custodian denies the allegations contained in the petition, the court shall set a settlement conference, pretrial conference or mediation and continue the child as a temporary ward of the court pending adjudication.

c. Failure to appear. If the parent, guardian or Indian custodian fails to appear at the initial hearing without good cause shown, and the court finds the parent, guardian or Indian custodian had notice of the hearing, was properly served pursuant to Rule 48, and that the notice of hearing advised the parent, guardian or Indian custodian regarding the consequences of failure to appear, including a warning that the hearing could go forward in the absence of the parent, guardian or Indian custodian, and that failure to appear may constitute a waiver of rights and an admission to the allegation contained in the dependency petition, the court may adjudicate the child dependent if the petitioner has established grounds upon which to adjudicate the child dependent, based upon the record and evidence presented. The court shall enter findings and orders pursuant to Rule 55.

D. [No Change]

E. [No Change]

Rule 54. Pretrial conference

A. [No Change]

B. Procedure.

1. If the parties wish to discuss possible settlement, the court shall conduct a settlement conference pursuant to Rule 53; or

2. If the parties advise the court that the matter will proceed to trial, the parties and the court shall confer to determine:

a. Whether disclosure has been made pursuant to Rule 44(B)(2);

b. The time needed for trial;

c. The scheduling of witnesses;

d. Any other issues raised by the parties as may be appropriate; and

e. Whether the trial will be ~~open~~ closed to the public.

f. How a verbatim record of the dependency adjudication hearing will be made.

C. [No Change]